



**TOWN OF HARPSWELL
PLANNING BOARD MINUTES
MARCH 21, 2007**
Approved April 18, 2007

MEMBERS PRESENT

John Papacosma, Chairman
Dorothy Carrier, Vice Chairman
Joanne Rogers
Kenneth Cichon
Robin Brooks

MEMBERS ABSENT

STAFF PRESENT

Jay Chace, Planner
Marsha Hinton, Recording Secretary

The Town of Harpswell Planning Board meeting being duly advertised in the Times Record was called to order at 6:30 p.m. by Mr. Papacosma, Chairman.

Mr. Papacosma, Chair, reviewed the Planning Board site visits on March 19, 2007, which were attended by Ms. Rogers, Mr. Brooks, Mr. Papacosma, Mr. Cichon and Mr. Chace, Town Planner.

Mr. Papacosma, Chair, explained the hearing process and procedures for the Planning Board meeting.

OLD BUSINESS

No old business.

NEW BUSINESS

ITEM 1

07-03-01 Kyle and Susan O'Brien, (Herman Bansmer III – Owner), Reconstruction of Non-Conforming Structure, Shoreland Residential, Tax Map 13-141, 13 Cove Side Drive, Harpswell.

Ms. Susan O'Brien, introduced Mr. Harty, Harty and Harty Land Surveyors. Ms. O'Brien described the proposal to combine the two structures on the site into one structure. Mr. Harty described the details of the proposal. Mr. Harty discussed the setbacks, non-conforming portions of the structures, improvement to the shoreline setback, square footage, percentage of increase, impact to vegetation, grades, flood elevations, septic system, and well.

Mr. Papacosma opened the floor to members of the public who wished to comment on this agenda item. None being seen, Mr. Papacosma closed the public portion of the meeting.

Mr. Chace described the calculations used to determine the allowable expansion.

The Planning Board discussed the size of the lot, slope of the land, potential for soil erosion, location of other structures, septic system, soils suitable for on site septic, removal of vegetation, and foundation. Mr. Cichon expressed his concerns regarding the septic system based on his observations at the site walk, the proposed increase in size of the structure, and asked about documentation with regard to functionality of the system. Mr. Cichon also pointed out that this proposal makes this site the least non-conforming of any of the structures in the neighborhood. Ms. O'Brien directed the Planning Board's attention to the March 6, 2007, letter from Stephen P. Robbins with regard to the septic system and stated that they will be replacing the existing tank. Mr. Chace stated that the Code Enforcement Office will not issue a certificate of compliance until the septic tank is replaced.

Mr. Papacosma moved, seconded by Ms. Rogers that the applicant's proposed reconstruction and reconstruction location meets the requirements of Shoreland Zoning Ordinance § 10.3.2.2 as it is being placed in the most practical area available on that site. Unanimous Approval

The Planning Board reviewed the standards of the Basic Land Use Ordinance § 13.4.7. The Planning Board discussed whether the proposal maintains safe and healthful conditions, erosion control plan, impact on fish and wildlife habitat, subsurface wastewater disposal, access to water bodies, archeological and historic resources on the site, impact to commercial fishing, floodplain, and compliance with Shoreland Zoning Ordinance § 15. Ms. Rogers stated that due to the marginal condition of the existing septic system she does not have any confidence in the adequacy of the existing septic system. Ms. Carrier expressed her concerns with the septic system because of the potential for negative impact to the natural resources connected with the shoreline below the site.

Mr. Brooks moved, seconded by Ms. Carrier, to find that the application meets the requirements of the Basic Land Use Ordinance § 13.4.7 with the exception of § 13.4.7.3 and § 13.4.7.4. Unanimous Approval

Mr. Chace suggested that the Planning Board's concerns might be addressed by language in the notice of decision with regard to the septic system. Mr. Chace read Shoreland Zoning Ordinance § 15.11.3 concerning subsurface wastewater disposal. The Planning Board discussed their authority with regard to the marginal septic system and the concern that the nearby resource is protected.

Mr. Cichon moved, seconded by Ms. Carrier to find that the application meets the requirements of Basic Land Use Ordinance § 13.4.7.3 and § 13.4.7.4 based on the representation from a licensed site evaluator that the system appears to be marginally adequate for its intended purposes with the condition that a licensed site evaluator or local plumbing inspector conducts an inspection of the property and septic system subsequent to the renovation under conditions of use to determine its adequacy. Unanimous Approval

Mr. Papacosma moved, seconded by Ms. Rogers that the applicant has meet the requirements of Shoreland Zoning Ordinance § 10.2.3.3 and Basic Land Use Ordinance § 13.4.7 with the conditions as stipulated. Unanimous Approval

ITEM 2

07-03-02 Duane Webber (Douglas & Elizabeth Brown), Approval of Land Use in the Shoreline Zone, Resource Protection/Shoreland Residential Zones, Tax Map 43-21, Doughty Point Road, Harpswell.

Mr. Douglas Brown introduced Mr. Duane Webber. Mr. Brown outlined the proposal for a driveway through the resource protection zone. Mr. Webber pointed out the constraints to the property which necessitated the proposed location of the driveway and the length of the driveway that would enter the resource protection district.

Mr. Papacosma opened the floor to members of the public who wished to comment on this agenda item.

Mr. John Wright, abutter, asked if the other options were explored to the north of the septic system. Mr. Webber explained that the north side of the septic system is restricted by an easement as well as slope of the land.

Mr. Papacosma stated that the site visit was enlightening because seeing the constraints made the location and length understandable. The Planning Board discussed the location of the septic system, slope of the land, ledge, and the topography.

Ms. Rogers moved, seconded by Mr. Brooks that the applicant meets Shoreland Zoning Ordinance §15.3.8 as the Board finds that there appears to be no other location or alternative route outside the resource protection zone on the property identified as Tax Map 43-21 to develop a driveway. Unanimous Approval

ITEM 3

07-03-03 James and Kathleen Clemons, Site Plan Review, Commercial Fishing, Tax Map 16-376, Windsor Lane, Harpswell.

Mr. James Clemons described the proposal to increase the size of his commercial fishing wharf. Mr. Clemons explained that the family operated fishing business has increased and has outgrown the size of the existing wharf. Mr. Clemons stated that the parking area, lighting, or foot traffic will not increase. Mr. Clemons added that he will not be storing bait or fuel on the site and therefore there will be no large trucks. Mr. Clemons stated that the increase in size is necessary to accommodate the number of traps which would be stored, pointed out the limited storage space on the property, and highlighted the percentage of the building envelope he was utilizing.

Mr. Papacosma opened the floor to members of the public who wished to comment.

Mr. Joe LeBlanc explained that he designs and builds both commercial and private piers throughout the state. Mr. LeBlanc stated that the Clemons have a contract authorizing Mr. LeBlanc to act as the Clemons' permitting agent. Mr. LeBlanc indicated that the Clemons are not honoring the contract and are plagiarizing his work product without his permission as part of their submittal package. Mr. LeBlanc pointed out past omissions in permitting relating to Mr. Clemons' wharf.

Mr. Papacosma explained that Mr. LeBlanc's complaint was not something that the Planning Board has authority to address and recommended that Mr. LeBlanc seek remediation elsewhere.

Mr. Chace distributed letters from abutters which were received within the past couple of days.

Ms. Annette Mott, Bowdoinham, representing Mr. Charles Mott, stated that Mr. Mott was concerned about what the business changes might be, traffic congestion, and impact to property values.

Mr. Jay Pickens, abutter, expressed his concern with regard to traffic and the size of the wharf.

No further comments from the public being seen, Mr. Papacosma closed the public portion of the meeting.

Planning Board review of Site Plan Review § 15 approval standards and criteria.

Section 15.4 Access into the Site

Ms. Rogers moved, seconded by Ms. Carrier that the applicant meets the requirements of § 15.4. Unanimous Approval

Section 15.7 Parking

Mr. Papacosma moved, seconded by Mr. Brooks to find that the applicant has testified that there will be minimal vehicular traffic on site and that the users of the wharf park on the owner's abutting property and walk

to the location of the proposed expansion and therefore the applicant meets the requirements of Site Plan Review § 15.7. Unanimous Approval

Mr. Cichon expressed his concern with regard to storage of bait or similar increases in use and clarified that this application was for a larger dock and more boat handling capability.

Section 15.14 Natural Features and Buffering

Ms. Rogers moved seconded by Ms. Carrier to find that the application meets the requirements of Site Plan Review Ordinance § 15.14. Unanimous Approval

Section 15.21 Technical and Financial Capacity

Ms. Rogers moved, seconded by Mr. Papacosma to find that the applicant meets the requirements of Site Plan Review Ordinance § 15.21. Unanimous Approval

Ms. Rogers moved, seconded Mr. Brooks that based on the information submitted by the applicant and related materials established as part of the record and upon the findings of the Town of Harpswell's Planner's Memorandum dated March 16, 2007, that the application of James Clemons will meet the provisions of § 15.1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20 of the Site Plan Review Ordinance. Unanimous Approval

Mr. Cichon added for the purposes of the record that this is a continuance of an existing use, there is little if any change anticipated in the site activity, and none of the ordinance provisions are affected. Mr. Chace stated that the Planning Board will consider the wharf and the wharf's width in their review of § 15.3 of the Shoreland Ordinance.

Planning Board consideration of Shoreland Zoning Ordinance § 15.3

15.3.1 Development on Appropriate Soils

Ms. Rogers moved, seconded by Mr. Papacosma, to find that since there is an existing structure that is being expanded it is reasonable to find that the provisions of Shoreland Zoning Ordinance §15.3.1 will be met. Unanimous Approval

15.3.2 Interference with Existing Beach Area

Ms. Rogers moved, seconded by Ms. Carrier, that the application meets the requirements of Shoreland Zoning Ordinance §15.3.2 as the proposed expansion will meet the 25 foot setback from the abutting properties and it is an existing structure that is being expanded. Unanimous Approval

15.3.3 Adverse Affect on Fisheries

Ms. Rogers moved, seconded by Mr. Papacosma, that the applicant meets the requirements of Shoreland Zoning Ordinance §15.3.3 as it is an existing structure that is being expanded therefore it is reasonable to find that the provisions of this section will be met. Unanimous Approval

Mr. Chace reminded the Planning Board that Shoreland Zoning Ordinance §15.3.4.2 is the applicable review standard for commercial piers.

15.3.4.2 Maximum Width for Commercial Piers

Mr. Papacosma moved, seconded by Ms. Carrier that the applicant has provided testimony that justifies the increase in width from 16 feet to 28.6 feet. Unanimous Approval

Mr. Chace pointed out that the standards of Shoreland Zoning Ordinance §15.3.5, .6, and .7 do not apply to this application because those standards address a structure built over the pier and this application does not propose such a structure.

Ms. Rogers moved, seconded by Mr. Brooks that based on the information submitted by the applicant and related materials established as part of the record and upon the findings in the Town of Harpswell Planner's memorandum dated March 16, 2007, that the application of James Clemons will meet the standards of Basic Land Use Ordinance § 13.4.7. Unanimous Approval

Mr. Papacosma stated that the existing use is continuing with no impact to the existing landside structures and it is in a Commercial Fishing Zone. Ms. Carrier added that the Planning Board has taken the letters received from abutters under advisement, duly recognize their efforts, and that the letters will remain on file as part of the official record.

Mr. Papacosma moved, seconded by Mr. Cichon that the application for a commercial fishing wharf system expansion meets the requirements of Site Plan Review Ordinance § 15, Shoreland Zoning Ordinance § 15.3, and Basic Land Use Ordinance § 13.4.7. Unanimous Approval

Minutes of March 7, 2006

Ms. Rogers moved, seconded by Mr. Cichon approve the minutes of March 7, 2007, as submitted. Unanimous Approval

OTHER BUSINESS

Mr. Chace encouraged the Planning Board to attend the Municipal Stormwater Management Workshop to be held in the City of Bath on Wednesday, April 4, 2007.

The Planning Board discussed informal mechanisms by which the Board may receive feedback on compliance with conditions of approval.

There being no other business before the Planning Board, Ms. Carrier moved, seconded by Mr. Papacosma to adjourn.

Meeting adjourned at 8:20 p.m.

Respectfully Submitted,

Marsha M. Hinton
Planning Assistant